

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference C 2931 PCT	FOR FURTHER ACTION		See item 4 below
International application No. PCT/EP2005/002210	International filing date (<i>day/month/year</i>) 03 March 2005 (03.03.2005)	Priority date (<i>day/month/year</i>) 11 March 2004 (11.03.2004)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant COGNIS IP MANAGEMENT GMBH			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).
2. This REPORT consists of a total of 5 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

<input checked="" type="checkbox"/> Box No. I	Basis of the report
<input type="checkbox"/> Box No. II	Priority
<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/> Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/> Box No. VI	Certain documents cited
<input type="checkbox"/> Box No. VII	Certain defects in the international application
<input type="checkbox"/> Box No. VIII	Certain observations on the international application
4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	Date of issuance of this report 01 November 2006 (01.11.2006)
	Authorized officer Ellen Moyse e-mail: pt05@wipo.int

PATENT COOPERATION TREATY

TRANSLATION

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing
(day/month/year)

See form PCT/ISA/210

Applicant's or agent's file reference

C 2931 PCT

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/EP2005/002210

International filing date (day/month/year)

03.03.2005

Priority date (day/month/year)

11.03.2004

International Patent Classification (IPC) or both national classification and IPC

C10L1/02, C10L1/22, C10L1/18, C10L10/00

Applicant

COGNIS DEUTSCHLAND GMBH & CO.KG

1. This opinion contains indications relating to the following items:

☒

Box No. I

Basis of the opinion

☐

Box No. II

Priority

☐

Box No. III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

☐

Box No. IV

Lack of unity of invention

☒

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

☐

Box No. VI

Certain documents cited

☐

Box No. VII

Certain defects in the international application

☐

Box No. VIII

Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2005/002210

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ in written format

☐ in computer readable form

c. time of filing/furnishing

☐ contained in the international application as filed.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2005/002210

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims		YES
	Claims	1-13	NO
Inventive step (IS)	Claims		YES
	Claims	1-13	NO
Industrial applicability (IA)	Claims	1-13	YES
	Claims		NO

2. Citations and explanations:

1. Reference is made to the following documents:

D1: US 2004/040202 A1

D2: GB-A-2 336 119

2. The subject matter of claims 1-13 is not novel within the meaning of PCT Article 33(2) and does not involve an inventive step within the meaning of PCT Article 33(3).

2.1 Interpretation of the patent claims:

The term "dry" in claim 1 is a relative concept and has no generally recognized meaning (it is impossible to state the water content).

The independent claims 1, 12 and 13 and the dependent claims 4, 5, 8, 9 are product claims which characterize the products by a process for their preparation. The additive (reaction product) does not automatically obtain technical features by technical modification of this process.

To distinguish novelty, proof is required that the modification of the process leads to different products.

2.2 D1, see the relevant passages cited in the international

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2005/002210

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

search report, discloses a fuel composition comprising diesel oil, ethanol (1-10 or 5-8% by weight) and an amide compound of oleic acid and diethanolamine (0.1-5% by weight). Oleic acid can be derived from vegetable oils. This additive was employed as solubilizer for ethanol-containing diesel fuel.

This disclosure is therefore novelty-destroying to the subject matter of claims 1-13 of the present application.

- 2.3 The claimed subject matter does not involve an inventive step.

The problem to be solved by the present invention consists in providing additives which are used as solubilizers for diesel-ethanol mixtures. The solution proposed cannot be regarded as being inventive because the problem is solved by D1 by the same additives.

D2 discloses fuel compositions which comprise diesel oil, ethanol and an amide compound of vegetable oils and diethanolamine. The subject matter of claims 1-13 therefore differs from the compositions of D2 by the ethanol component and cannot be regarded as being inventive because a person skilled in the art would select the component stated in claim 1 (see for example ethanol component in D1).